IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. CIVIL WRIT PETITION NO.10086/07
ICICI Bank Ltd. Vs. Shafiq Mohd. & Anr.

Date of order : 10/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Pankaj Gupta for the petitioner.

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Learned counsel for the petitioner at the outset has cited the judgment of this Court in S.B. CMA No.3077/07, M/s. ICICI Bank Ltd. Vs. Vishnu Prasad Sharma & Anr. Dated 21.8.07 in favour of his case. In the aforesaid case, upon consideration of the law the Court has observed as under:

> *"It is to be seen that the authorities, which have been cited clearly shows that in such type of matters, the vehicles financed by the Bank and equated installments to be paid weer not paid orders for appointment of receiver were passed without notice to the respondent. In the cases cited above installments were paid of*

more than half amount of the loan and thereafter default was made in making payment towards the due installments then on moving application before the competent Court under Order 40 Rule 1 CPC for appointment of receiver those application were rejected at the initial stage by the learned trial Court and thereafter on appeal the Delhi High Court not in one case, but in several cases taking into consideration the decisions rendered by the Apex Court allowed the appeals/revisions petition and passed orders for appointment of Receiver.

A perusal of the material placed before me indicates without any manner of doubt that the vehicle in question was financed in the year 2005 and the installments were/are not being paid regularly. The respondent has presently stopped making payment towards installments due for long time. Notice was also issued to him but

he did not bother to even reply the same. Copy of the agreement also shows that the vehicle was financed by the appellant Bank under certain terms and conditions which have not been complied with. Thus, in the above circumstances, taking into consideration the material placed before me, I am of the opinion that this misc. application requires to be allowed."

Learned counsel for the petitioner has also relied on the judgment of Madras High Court in Sri Rama Machinery Corpn. Ltd. Vs. Standard Chartered Bank, Madras & Anr.-AIR 1999 Madras 137 and on the judgment of Bombay High Court in State Bank of India Vs. Trade Aid Paper and Allied Products (India)-I(1996) BC 309 (FB).

On perusal of the impugned order, I find that by the order passed by the first court, mere notice was issued to the other

party. I therefore while not interfering with the aforesaid order, set the petitioner at liberty to make an application before the trial court citing all the judgments on which reliance has been placed and it is expected of that Court to consider the matter afresh and decide such application, if filed, in accordance with law as expeditiously as possible.

With these observations, the writ petition is disposed of.

(MOHAMMAD RAFIQ), J.

RS/